IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 36419 of 1998

Between:

A.S.Narayana, S/o.Narayan Goud,
Occupation: Driver, E.65904,

R/o.4-100, Near Durga Temple,

Narsapoor, Medak District

..... PETITIONER

AND

1. The Management, APSRTC,

Musheerabad, Hyderabad,
rep.by its Manging director.

2. The Regional Manager APSRTC,

Sangareddy, Medak District.

3. The Senior Manager, now designated

as Deputy Chief Traffic Manager,
APSRTC, Sangareddy, Medak District.

4. The Depot Manager, APSRTC,

Bus Depot, Sangareddy, Medak District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records from the Respondents-2 to 4 in respect of the impugned proceedings Dt.07/07/95 and 16/10/95 and issue appropriate writ or direction particularly one in the nature of writ of Certiorari and quash the order of removal passed by the 4th respondent by Dt.07/07/95 and the consequential order of the 3rd respondent in so far as imposing the punishment of reducing the petitioner's pay by 4 incremental stages with permanent effect, besides treating the removal period as leave-not-due and also the action of the 2nd respondent in rejecting the review petition vide order Dt.12/07/1997 as arbitrary, unjust, in violation of the Articles14,16 & 21 of the Constitution of India and consequently direct the respondents to restore all consequential benefits including the back wages and restoration of increments, treating the period in question as on duty for all purposes, in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD (SC FOR APSRTC)

The Court made the following:

ORDER:

This writ petition is filed seeking writ of Certiorari to quash the order passed by the 3rd respondent in his proceedings dated 16-10-1995, wherein the petitioner was imposed punishment of reducing his pay by 4 incremental stages with cumulative effect, besides treating the removal period as leave-not-due, as arbitrary and illegal.

2. It is the case of the petitioner he was appointed as driver in A.P.S.R.T.C. with effect from 19-08-1975. Since then he has been continuously working. While so, when he was working under the 4th respondent, he has been issued a charge sheet, dated 20-01-1995, with the following charges.

" 1. Absent for duties from 17-12-1994 to 4-1-1995 resulting cancellation of services/KMs besides loss to the revenue of corporation which constitute misconduct under Regulation 28 (XXVII) of APSRTC Employees (Conduct) Regulations, 1963.

2. Habitual attendance as you were away from your duties for 112 days for a period

from January, 1994 to December, 1994 which constitute misconduct in terms of Regulation 28 (XXVII) of APSRTC Employees (Conduct) Regulations, 1963."

After receiving the explanation submitted by the petitioner, a detailed enquiry was conducted in the matter and after completing the formalities, the 4th respondent-Disciplinary Authority passed an order dated 07-07-1995 removing the petitioner from services of the corporation. Aggrieved by the same, the petitioner filed an appeal before the 3rd respondent and the same was allowed and the punishment of removal from service was modified to that of reduction in the pay scale by 4 incremental stages with cumulative effect.

3. According to the petitioner, the charges are vague in nature and they are overlapping each other. The petitioner was granted 15 days leave and 47 days sick leave and he had absented only for 50 days during the period from January 1994 to January 1995. Even that was intermittently reported to the authorities. Therefore, it cannot be said that there was any misconduct on the part of the petitioner. Hence, imposing such a drastic punishment of reduction in the pay scale by 4 incremental stages would result in financial loss to the petitioner. Therefore, the order under challenge deserves to be set aside.

4. A detailed counter affidavit has been filed by the respondents denying the allegations made by the petitioner and further asserting the petitioner has committed grave mistake and the punishment of removal was in fact interfered into and a lenient view was taken by the Senior Manager and the same was modified to that of reducing his pay by four increments with cumulative effect and such a punishment in the nature of the charges proved does not call for interference of this Court. The writ petition is devoid of merits and is liable to be dismissed.

5. I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the impugned proceedings and other material made available on record.

6. Admittedly, this is a case of absenteeism and absenteeism is nothing but a matter of record. May be, the petitioner is trying to justify his absence of 50 days for the period during January 1994 and January 1995, since he was granted 15 days leave and also 47 days sick leave. That itself does not mean that there was no lacuna on the part of the petitioner. In fact, the Junior Assistant of Sangareddy Depot, who was examined in the domestic enquiry, stated that the petitioner did not produce any sick certificate from Tarnaka Hospital from 17-12-1994 to 04-01-1995. Further, the petitioner has not reported at Tarnaka Hospital from 17.12.1994 to 04.01.1995, where he was directed to report. The attendance particulars reveal that the petitioner was absent for 47 days from January 1994 to December 1994 and was sick for 50 days. Since the petitioner had put in long years of service (20 years), since his attendance was satisfactory for the earlier years of service rendered by him, a lenient view was taken by the appellate authority and modified the order of removal from the service to that of reduction of his pay by 4 incremental stages with cumulative effect. So far as the findings of the respondents and the punishment imposed is concerned, it cannot be said that the respondents have committed infirmity requiring interference by this Court. However, the reduction of pay by 4 incremental stages for the rest of the service is definitely a disproportionate punishment. Instead of remitting the matter for reconsideration, it is better to give a quietus to this matter at this stage. I am of the considered view that the punishment of reduction of 4 incremental stages for 10 years i.e., from 07/07/1995 to 07/07/2005 would be a sufficient punishment and there is no necessity of continuing the implementation of the said punishment after 07-07-2005.

7. With the above modification of punishment, this writ petition is disposed of. No order as to costs.

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C.V.RAMULU,J.

Date: 24th June 2005.

BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Manging director, APSRTC,

Musheerabad, Hyderabad,

2. The Regional Manager, APSRTC,

Sangareddy, Medak District.

3. The Senior Manager, now designated

as Deputy Chief Traffic Manager,
APSRTC, Sangareddy, Medak District.

4. The Depot Manager, APSRTC,

Bus Depot, Sangareddy, Medak District.

5. Two CD copies

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